

1984 S.C. Op. Att'y. Gen. 143 (S.C.A.G.), 1984 S.C. Op. Att'y. Gen. No. 84-57, 1984 WL 159864

Office of the Attorney General

State of South Carolina

Opinion No. 84-57

May 22, 1984

*1 Andrew W. Brock
Detective
Seneca Police Department
Drawer 4773
Seneca, SC 29679

Dear Detective Brock:

In a letter to this office, you raised two questions dealing with the authority of a city recorder.

In your first question you asked whether a city recorder is authorized to assess an administrative court cost against an affiant of an arrest warrant, who, after swearing to the affidavit in the warrant, desires to drop such warrant. Enclosed please find a copy of a previous opinion of this office dated March 8, 1984, which basically states that there are no State statutes or court rules which would provide for a payment in the circumstances outlined in your letter. Therefore, such a payment could not be demanded.

In your second question, you asked whether a city recorder is authorized to assess court costs against defendants found guilty in the recorder's court. In a previous opinion of this office dated April 16, 1979, a copy of which is enclosed, this office determined that only such court costs as are authorized by statute may be imposed by a particular court. The opinion referenced a particular act which was pending in the General Assembly in 1979, S. 402. Such legislation became Act No. 164 of 1979. However, while such act did make numerous provisions for magistrates' courts in this State, and included schedules for fees and costs to be collected by magistrates for various duties, there were no provisions which generally authorized the imposition of costs of defendants found guilty in the criminal courts in this State.

While the above-referenced act did not provide for costs in the circumstances described in your letter, other provisions do authorize costs in certain criminal cases. [Section 23-23-70, Code of Laws of South Carolina](#), 1976, as amended, provides for a monetary amount to be added to and levied above a fine or forfeiture impose for a criminal or traffic violation in this State. Such statute provides a scale to be followed in determining the amount to be paid according to the fine levied. Also, such statute states that an additional twenty-five cents (.25) is to be collected in circumstances where a fine is levied which would be used for the S.C. Law Enforcement Hall of Fame. Additionally, [§ 24-23-210, Code of Laws of South Carolina](#), 1976, as amended, provides for an assessment for the community corrections program in certain circumstances following an adjudication of guilt. Again, however, only such costs as are authorized by statute, such as the statutes referenced here, may be imposed on a criminal defendant.

If there is anything further, do not hesitate to contact me.

Sincerely,

Charles H. Richardson
Assistant General Attorney

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